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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues Against:

Case No. 2008-180

12 **VALENTIN GARCIA LOPEZ, JR.**
13 CDC #V98071
GYM - 137 UP
14 P. O. Box 2400
Susanville, CA 96127-2400

STATEMENT OF ISSUES

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16 Applicant/Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Statement
20 of Issues solely in her official capacity as the Executive Officer of the Board of Registered
21 Nursing, Department of Consumer Affairs.

22 2. **Valentin Garcia Lopez, Jr.** On or about June 26, 2001, the Board
23 of Registered Nursing ("Board") received an Application for Licensure by Examination
24 from Valentin Garcia Lopez, Jr. ("Applicant/Respondent"). On or about April 24, 2001,
25 Applicant/Respondent certified under penalty of perjury to the truthfulness of all statements,
26 answers, and representations in the application. The Board denied the application on
27 March 12, 2007.

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1 **JURISDICTION**

2 3. Section 2736 of the Business and Professions Code ("Code") provides,
3 in pertinent part:

4 (a) An applicant for licensure as a registered nurse shall
5 comply with each of the following:

6

7 (3) Not be subject to denial of licensure under Section 480.

8 **STATUTORY PROVISIONS**

9 4. Code section 480 provides, in pertinent part:

10 (a) A board may deny a license regulated by this code
11 on the grounds that the applicant has one of the following:

12 (1) Been convicted of a crime. A conviction within
13 the meaning of this section means a plea or verdict of guilty or
14 a conviction following a plea of nolo contendere. Any action
15 which a board is permitted to take following the establishment of a
16 conviction may be taken when the time for appeal has elapsed, or
the judgment of conviction has been affirmed on appeal, or when
an order granting probation is made suspending the imposition of
sentence, irrespective of a subsequent order under the provisions
of Section 1203.4 of the Penal Code.

17 (2) Done any act involving dishonesty, fraud or deceit
18 with the intent to substantially benefit himself or another, or
substantially injure another; or

19 (3) Done any act which if done by a licentiate of the
20 business or profession in question, would be grounds for
suspension or revocation of license.

21 The board may deny a license pursuant to this subdivision
22 only if the crime or act is substantially related to the qualifications,
functions or duties of the business or profession for which
application is made.

23 5. Code section 2761 provides, in pertinent part:

24 The board may take disciplinary action against a certified or
25 licensed nurse or deny an application for a certificate or license for
any of the following:

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1 (f) Conviction of a felony or of any offense substantially
2 related to the qualifications, functions, and duties of a registered
3 nurse, in which event the record of the conviction shall be
4 conclusive evidence thereof.

5 **REGULATORY PROVISIONS**

6 6. California Code of Regulations, title 16, section 1444, provides, in
7 pertinent part:

8 A conviction or act shall be considered to be substantially
9 related to the qualifications, functions or duties of a registered
10 nurse if to a substantial degree it evidences the present or potential
11 unfitness of a registered nurse to practice in a manner consistent
12 with the public health, safety, or welfare.

13 **FIRST GROUND FOR DENIAL OF LICENSURE**

14 (Conviction of Crime)

15 7. Grounds exist to deny the application of Applicant/Respondent
16 under Code sections 2736, subdivision (a)(3), 480, subdivision (a)(1), and 2761, subdivision (f),
17 in that on or about June 29, 2005, in the case entitled, *People v. Valentin Garcia Lopez, Jr.*
18 (Super. Ct. Ventura County, 2005, No. 2004100136), Applicant/Respondent was convicted by
19 the court upon a plea of guilty of five counts of violating Penal Code section 487, subdivision (a)
20 (grand theft of personal property); one count of violating Penal Code section 530.5, subdivision
21 (a) (identity theft); one count of violating Penal Code section 1320, subdivision (b) (failure to
22 appear on own recognizance); five counts of violating Corporations Code section 25110 (offer to
23 sell security without qualification); and, five counts of violating Corporations Code section
24 25401 (offer or sale of security), all felonies and crimes substantially related to the qualifications,
25 functions or duties of a licensee within the meaning of California Code of Regulations, title 16,
26 section 1444.

27 8. The circumstances of the convictions are as follows:

28 a. On or about October 1, 2003, through September 11, 2004,
Applicant/Respondent unlawfully took money and personal property of a value exceeding Four
Hundred Dollars (\$400), to wit: money, the property of another. (Pen. Code, § 487, subd. (a).)

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10. Grounds exist to deny the application of Applicant/Respondent under Code sections 2736, subdivision (a)(3), and 480, subdivision (a)(3), in that, as more particularly set forth under paragraphs 7 and 8, above, Applicant/Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a licensee, acts which if committed by a licensee would have subjected that license to suspension or revocation under Code section 2761, subdivision (f) (conviction of crime).

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing the Board issue a decision:

1. Denying the application of Valentin Garcia Lopez, Jr. for a registered nurse license; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: 12/5/07

Ellen Hochberg
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant